

REFERENCE TITLE: public employees; collective bargaining..

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1252

Introduced by
Senators Burton Cahill: Rios

AN ACT

AMENDING TITLE 23, CHAPTER 8, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7;
AMENDING SECTION 41-1092.02, ARIZONA REVISED STATUTES; AMENDING TITLE 41,
CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION
41-3018.01; RELATING TO THE PUBLIC EMPLOYEE BARGAINING ACT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 23, chapter 8, Arizona Revised Statutes, is amended
3 by adding article 7, to read:

4 ARTICLE 7. PUBLIC EMPLOYEE BARGAINING ACT

5 23-1421. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "APPROPRIATE BARGAINING UNIT" MEANS A GROUP OF PUBLIC EMPLOYEES
8 DESIGNATED BY THE BOARD OR A LOCAL BOARD FOR THE PURPOSE OF COLLECTIVE
9 BARGAINING.

10 2. "APPROPRIATE GOVERNING BODY" MEANS THE POLICYMAKING BODY OR
11 INDIVIDUAL REPRESENTING A PUBLIC EMPLOYER.

12 3. "BOARD" MEANS THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD.

13 4. "CERTIFICATION" MEANS THE DESIGNATION, BY THE BOARD OR A LOCAL
14 BOARD, OF A LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE FOR ALL PUBLIC
15 EMPLOYEES IN AN APPROPRIATE BARGAINING UNIT.

16 5. "COLLECTIVE BARGAINING" MEANS THE ACT OF NEGOTIATING BETWEEN A
17 PUBLIC EMPLOYER AND AN EXCLUSIVE REPRESENTATIVE FOR THE PURPOSE OF ENTERING
18 INTO A WRITTEN AGREEMENT REGARDING WAGES, HOURS AND OTHER TERMS AND
19 CONDITIONS OF EMPLOYMENT.

20 6. "CONFIDENTIAL EMPLOYEE" MEANS A PERSON WHO ASSISTS AND ACTS IN A
21 CONFIDENTIAL CAPACITY TO A PERSON WHO FORMULATES, DETERMINES AND EFFECTUATES
22 MANAGEMENT POLICIES FOR MEETING AND CONFERRING.

23 7. "EXCLUSIVE REPRESENTATIVE" MEANS THE LABOR ORGANIZATION CERTIFIED
24 TO BE THE SOLE MEET AND CONFER AGENT OF ALL PUBLIC EMPLOYEES IN THE
25 APPROPRIATE BARGAINING UNIT FOR THE PURPOSES OF COLLECTIVE BARGAINING.

26 8. "IMPASSE" MEANS THE FAILURE OF A PUBLIC EMPLOYER AND AN EXCLUSIVE
27 REPRESENTATIVE, AFTER GOOD FAITH BARGAINING, TO REACH AGREEMENT IN THE COURSE
28 OF NEGOTIATING A COLLECTIVE BARGAINING AGREEMENT.

29 9. "LABOR ORGANIZATION" MEANS AN EMPLOYEE ORGANIZATION WHOSE PURPOSE
30 IS THE REPRESENTATION OF PUBLIC EMPLOYEES IN COLLECTIVE BARGAINING AND IN
31 MEETING, CONSULTING AND CONFERRING WITH EMPLOYERS ON MATTERS PERTAINING TO
32 EMPLOYMENT RELATIONS.

33 10. "LOCAL BOARD" MEANS A LOCAL LABOR RELATIONS BOARD ESTABLISHED BY A
34 PUBLIC EMPLOYER THAT IS A POLITICAL SUBDIVISION OF THIS STATE THROUGH
35 ORDINANCE, RESOLUTION OR CHARTER AMENDMENT.

36 11. "LOCKOUT" MEANS AN ACT BY A PUBLIC EMPLOYER TO PREVENT ITS
37 EMPLOYEES FROM GOING TO WORK FOR THE PURPOSE OF RESISTING THE DEMANDS OF THE
38 EMPLOYEES' EXCLUSIVE REPRESENTATIVE OR FOR THE PURPOSE OF GAINING A
39 CONCESSION FROM THE EXCLUSIVE REPRESENTATIVE.

40 12. "MANAGEMENT EMPLOYEE" MEANS AN EMPLOYEE WHO IS ENGAGED PRIMARILY IN
41 EXECUTIVE AND MANAGEMENT FUNCTIONS AND WHO IS CHARGED WITH THE RESPONSIBILITY
42 OF DEVELOPING, ADMINISTERING OR EFFECTUATING MANAGEMENT POLICIES. MANAGEMENT
43 EMPLOYEE DOES NOT INCLUDE AN EMPLOYEE WHO PARTICIPATES IN COOPERATIVE
44 DECISION MAKING PROGRAMS ON AN OCCASIONAL BASIS.

1 13. "MEDIATION" MEANS ASSISTANCE BY AN IMPARTIAL THIRD PARTY TO
2 RESOLVE, THROUGH INTERPRETATION, SUGGESTION AND ADVICE, AN IMPASSE BETWEEN A
3 PUBLIC EMPLOYER AND AN EXCLUSIVE REPRESENTATIVE REGARDING EMPLOYMENT
4 RELATIONS.

5 14. "PROFESSIONAL EMPLOYEE" MEANS AN EMPLOYEE WHOSE WORK IS
6 PREDOMINANTLY INTELLECTUAL AND VARIED IN CHARACTER, INVOLVES THE CONSISTENT
7 EXERCISE OF DISCRETION AND JUDGMENT IN ITS PERFORMANCE AND REQUIRES KNOWLEDGE
8 OF AN ADVANCED NATURE IN A FIELD OF LEARNING CUSTOMARILY REQUIRING
9 SPECIALIZED STUDY AT AN INSTITUTION OF HIGHER EDUCATION OR ITS EQUIVALENT.

10 15. "PUBLIC EMPLOYEE" MEANS AN EMPLOYEE OF THIS STATE OR ANY POLITICAL
11 SUBDIVISION OF THIS STATE BUT DOES NOT INCLUDE ELECTED OFFICIALS OR PERSONS
12 WHO ARE APPOINTED TO SERVE ON BOARDS OR COMMISSIONS.

13 16. "PUBLIC EMPLOYER" MEANS THIS STATE AND ANY POLITICAL SUBDIVISION OF
14 THIS STATE.

15 17. "STRIKE" MEANS A PUBLIC EMPLOYEE'S REFUSAL IN CONCERTED ACTION WITH
16 OTHERS TO REPORT FOR DUTY, THE WILFUL ABSENCE BY AN EMPLOYEE FROM THE
17 EMPLOYEE'S POSITION OR THE STOPPING OF WORK OR THE ABSENCE FROM THE FULL,
18 FAITHFUL OR PROPER PERFORMANCE OF DUTIES FOR THE PURPOSE OF INDUCING,
19 INFLUENCING OR COERCING A CHANGE IN THE CONDITIONS, COMPENSATION, RIGHTS,
20 PRIVILEGES OR OBLIGATIONS OF PUBLIC EMPLOYMENT.

21 18. "SUPERVISOR" MEANS AN INDIVIDUAL WHO IS EMPLOYED BY AN EMPLOYER AND
22 WHO:

23 (a) HAS THE AUTHORITY IN THE INTEREST OF THE EMPLOYER TO HIRE,
24 TRANSFER, FURLOUGH, LAY OFF, RECALL, SUSPEND, DISCIPLINE OR REMOVE OTHER
25 EMPLOYEES, IF THE EXERCISE OF THE AUTHORITY IS NOT MERELY ROUTINE OR CLERICAL
26 IN NATURE BUT REQUIRES THE CONSISTENT EXERCISE OF INDEPENDENT JUDGMENT.

27 (b) DEVOTES A MAJORITY OF TIME AT WORK EXERCISING THIS AUTHORITY.

28 23-1422. Public employee rights

29 A. PUBLIC EMPLOYEES MAY FORM, JOIN AND PARTICIPATE IN, OR REFRAIN FROM
30 FORMING, JOINING OR PARTICIPATING IN, ANY LABOR ORGANIZATION.

31 B. PUBLIC EMPLOYEES MAY BE REPRESENTED BY THE EXCLUSIVE REPRESENTATIVE
32 AND MAY MEET AND CONFER THROUGH THE EXCLUSIVE REPRESENTATIVE WITH THEIR
33 PUBLIC EMPLOYER IN THE DETERMINATION OF THE TERMS AND CONDITIONS OF THEIR
34 EMPLOYMENT, INCLUDING THE RIGHT TO BE REPRESENTED IN THE DETERMINATION OF
35 GRIEVANCES ON ALL TERMS AND CONDITIONS OF EMPLOYMENT.

36 C. PUBLIC EMPLOYEES MAY ENGAGE IN CONCERTED ACTIVITIES NOT PROHIBITED
37 BY LAW FOR THE PURPOSE OF MEETING AND CONFERRING ON OTHER MUTUAL AID OR
38 PROTECTION OR MAY REFRAIN FROM ENGAGING IN THESE ACTIVITIES.

39 D. PUBLIC EMPLOYEES MAY EXERCISE THE RIGHTS PROVIDED FOR IN THIS
40 SECTION FREE FROM INTERFERENCE, INTIMIDATION, RESTRAINT, COERCION OR
41 DISCRIMINATION.

42 23-1423. Public employer rights

43 IN ADDITION TO ALL OF THE POWERS, RIGHTS AND DUTIES ESTABLISHED BY LAW,
44 A PUBLIC EMPLOYER HAS THE RIGHT TO:

1 1. DETERMINE THE MISSION OF ITS AGENCIES, SET STANDARDS OF SERVICE TO
2 BE OFFERED TO THE PUBLIC AND EXERCISE CONTROL OVER ITS ORGANIZATION AND
3 OPERATIONS.

4 2. DIRECT, PROMOTE OR ASSIGN ITS EMPLOYEES, TAKE DISCIPLINARY ACTION
5 FOR JUST CAUSE AND RELIEVE ITS EMPLOYEES FROM DUTY FOR LACK OF WORK.

6 23-1424. Appropriate governing body

7 A. THE APPROPRIATE GOVERNING BODY SHALL BE AS FOLLOWS:

8 1. FOR THIS STATE, THE GOVERNOR OR THE GOVERNOR'S DESIGNEE.

9 2. FOR A CONSTITUTIONALLY CREATED BODY, THE DESIGNATED HEAD OF THAT
10 BODY.

11 3. FOR A LOCAL PUBLIC BODY, THE ELECTED OR APPOINTED REPRESENTATIVE
12 BODY OR INDIVIDUAL CHARGED WITH MANAGEMENT OF THE LOCAL PUBLIC BODY.

13 B. IF THERE IS A DISPUTE REGARDING WHO THE APPROPRIATE GOVERNING BODY
14 IS, THE BOARD SHALL DETERMINE THE APPROPRIATE GOVERNING BODY.

15 23-1425. Public employee labor relations board; membership;
16 appointments; director; compensation

17 A. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD IS ESTABLISHED.

18 B. THE BOARD CONSISTS OF THE FOLLOWING MEMBERS WHO ARE APPOINTED BY
19 THE GOVERNOR:

20 1. ONE MEMBER WHO IS INVOLVED IN REPRESENTING PUBLIC EMPLOYEES.

21 2. ONE MEMBER WHO IS A PUBLIC EMPLOYER AND WHO IS ACTIVELY INVOLVED IN
22 COLLECTIVE BARGAINING.

23 3. ONE MEMBER WHO IS JOINTLY RECOMMENDED BY THE MEMBERS WHO ARE
24 APPOINTED PURSUANT TO PARAGRAPHS 1 AND 2.

25 C. BOARD MEMBERS SERVE A TERM OF ONE YEAR. VACANCIES THAT OCCUR,
26 OTHER THAN BY THE EXPIRATION OF A TERM, SHALL BE FILLED IN THE SAME MANNER
27 FOR THE BALANCE OF THE UNEXPIRED TERM. DURING THE APPOINTED TERM, A BOARD
28 MEMBER SHALL NOT BE A CANDIDATE FOR PUBLIC OFFICE, HOLD A PUBLIC OFFICE, BE A
29 PUBLIC EMPLOYEE OR BE AN EMPLOYEE OF A UNION OR AN ORGANIZATION THAT
30 REPRESENTS PUBLIC EMPLOYEES OR PUBLIC EMPLOYERS. BOARD MEMBERS MAY SERVE AN
31 UNLIMITED NUMBER OF TERMS.

32 D. THE BOARD SHALL APPOINT A DIRECTOR, WHO IS ELIGIBLE TO RECEIVE
33 COMPENSATION PURSUANT TO SECTION 38-611.

34 E. BOARD MEMBERS ARE ELIGIBLE TO RECEIVE COMPENSATION PURSUANT TO
35 SECTION 38-611 AND ARE ELIGIBLE TO RECEIVE REIMBURSEMENT OF EXPENSES PURSUANT
36 TO TITLE 38, CHAPTER 4, ARTICLE 2.

37 23-1426. Public employee labor relations board; powers and
38 duties

39 A. THE BOARD SHALL:

40 1. ADOPT RULES THAT ARE NECESSARY FOR THE ADMINISTRATION OF THIS
41 ARTICLE, INCLUDING RULES FOR:

42 (a) DESIGNATING APPROPRIATE BARGAINING UNITS.

43 (b) SELECTING, CERTIFYING AND DECERTIFYING EXCLUSIVE REPRESENTATIVES.

44 (c) FILING, HEARING AND MAKING DETERMINATIONS OF COMPLAINTS OF
45 PROHIBITED PRACTICES.

1 2. ADMINISTER AND ENFORCE THIS ARTICLE AND RULES ADOPTED PURSUANT TO
2 THIS ARTICLE AND USE APPROPRIATE ADMINISTRATIVE REMEDIES TO ENFORCE THIS
3 ARTICLE.

4 3. HOLD HEARINGS AND MAKE INQUIRIES NECESSARY TO CARRY OUT ITS
5 FUNCTIONS AND DUTIES.

6 4. CONDUCT STUDIES ON PROBLEMS RELATING TO EMPLOYEE AND EMPLOYER
7 RELATIONS.

8 5. REQUEST FROM PUBLIC EMPLOYERS AND LABOR ORGANIZATIONS THE
9 INFORMATION AND DATA NECESSARY TO CARRY OUT THE BOARD'S FUNCTIONS AND
10 RESPONSIBILITIES.

11 6. DECIDE ALL ISSUES BY MAJORITY VOTE AND ISSUE ITS DECISIONS IN THE
12 FORM OF WRITTEN ORDERS AND OPINIONS.

13 B. THE BOARD MAY:

14 1. ISSUE SUBPOENAS THAT REQUIRE, ON REASONABLE NOTICE, THE ATTENDANCE
15 AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF ANY EVIDENCE, INCLUDING
16 BOOKS, RECORDS, CORRESPONDENCE OR DOCUMENTS THAT RELATE TO ANY MATTER IN
17 QUESTION.

18 2. PRESCRIBE THE FORM OF SUBPOENA THAT IS IN A FORM USED IN CIVIL
19 ACTIONS IN DISTRICT COURT.

20 3. ADMINISTER OATHS AND AFFIRMATIONS, EXAMINE WITNESSES AND RECEIVE
21 EVIDENCE.

22 4. HIRE PERSONNEL OR CONTRACT WITH THIRD PARTIES TO ASSIST THE BOARD
23 IN ITS FUNCTIONS.

24 C. THE BOARD SHALL NOT REQUIRE ANY PUBLIC EMPLOYEE TO PAY MONEY TO ANY
25 LABOR ORGANIZATION AS A CONDITION OF EMPLOYMENT.

26 23-1427. Local boards; members; powers and duties

27 A. EXCEPT FOR THIS STATE AND IF THE PUBLIC EMPLOYEE LABOR RELATIONS
28 BOARD APPROVES, A PUBLIC EMPLOYER BY ORDINANCE, RESOLUTION OR CHARTER
29 AMENDMENT MAY ESTABLISH A LOCAL BOARD SIMILAR TO THE PUBLIC EMPLOYEE LABOR
30 RELATIONS BOARD. IF ESTABLISHED AND APPROVED, THE LOCAL BOARD SHALL ASSUME
31 THE DUTIES AND RESPONSIBILITIES OF THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD.
32 A LOCAL BOARD SHALL FOLLOW ALL PROVISIONS OF THIS ARTICLE THAT APPLY TO THE
33 PUBLIC EMPLOYEE LABOR RELATIONS BOARD UNLESS OTHERWISE APPROVED BY THE PUBLIC
34 EMPLOYEE LABOR RELATIONS BOARD.

35 B. A LOCAL BOARD SHALL CONSIST OF THE FOLLOWING MEMBERS WHO ARE
36 APPOINTED BY THE PUBLIC EMPLOYER:

37 1. ONE MEMBER WHO REPRESENTS PUBLIC EMPLOYEES.

38 2. ONE MEMBER WHO REPRESENTS MANAGEMENT.

39 3. ONE MEMBER WHO IS JOINTLY RECOMMENDED BY THE MEMBERS WHO ARE
40 APPOINTED PURSUANT TO PARAGRAPHS 1 AND 2 OF THIS SUBSECTION.

41 C. LOCAL BOARD MEMBERS SERVE A TERM OF ONE YEAR. VACANCIES THAT
42 OCCUR, OTHER THAN BY THE EXPIRATION OF A TERM, SHALL BE FILLED IN THE SAME
43 MANNER FOR THE BALANCE OF THE UNEXPIRED TERM. DURING THE APPOINTED TERM, A
44 LOCAL BOARD MEMBER SHALL NOT BE A CANDIDATE FOR PUBLIC OFFICE, HOLD A PUBLIC
45 OFFICE, BE A PUBLIC EMPLOYEE OR BE AN EMPLOYEE OF A UNION OR AN ORGANIZATION

1 THAT REPRESENTS PUBLIC EMPLOYEES OR PUBLIC EMPLOYERS. BOARD MEMBERS MAY
2 SERVE AN UNLIMITED NUMBER OF TERMS.

3 D. LOCAL BOARD MEMBERS ARE ELIGIBLE TO RECEIVE COMPENSATION AND
4 REIMBURSEMENT OF EXPENSES.

5 E. THE LOCAL BOARD SHALL:

6 1. ADOPT RULES THAT ARE NECESSARY FOR THE ADMINISTRATION OF THIS
7 ARTICLE, INCLUDING RULES FOR:

8 (a) DESIGNATING APPROPRIATE BARGAINING UNITS.

9 (b) SELECTING, CERTIFYING AND DECERTIFYING EXCLUSIVE REPRESENTATIVES.

10 (c) FILING, HEARING AND MAKING DETERMINATIONS OF COMPLAINTS OF
11 PROHIBITED PRACTICES.

12 2. ADMINISTER AND ENFORCE THIS ARTICLE AND RULES ADOPTED PURSUANT TO
13 THIS ARTICLE AND USE APPROPRIATE ADMINISTRATIVE REMEDIES TO ENFORCE THIS
14 ARTICLE.

15 3. HOLD HEARINGS AND MAKE INQUIRIES NECESSARY TO CARRY OUT ITS
16 FUNCTIONS AND DUTIES.

17 4. CONDUCT STUDIES ON PROBLEMS RELATING TO EMPLOYEE AND EMPLOYER
18 RELATIONS.

19 5. REQUEST FROM PUBLIC EMPLOYERS AND LABOR ORGANIZATIONS THE
20 INFORMATION AND DATA NECESSARY TO CARRY OUT THE LOCAL BOARD'S FUNCTIONS AND
21 RESPONSIBILITIES.

22 6. DECIDE ALL ISSUES BY MAJORITY VOTE AND ISSUE ITS DECISIONS IN THE
23 FORM OF WRITTEN ORDERS AND OPINIONS.

24 F. THE LOCAL BOARD MAY:

25 1. ISSUE SUBPOENAS THAT REQUIRE, ON REASONABLE NOTICE, THE ATTENDANCE
26 AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF ANY EVIDENCE, INCLUDING
27 BOOKS, RECORDS, CORRESPONDENCE OR DOCUMENTS THAT RELATE TO ANY MATTER IN
28 QUESTION.

29 2. PRESCRIBE THE FORM OF SUBPOENA THAT IS IN A FORM USED IN CIVIL
30 ACTIONS IN DISTRICT COURT.

31 3. ADMINISTER OATHS AND AFFIRMATIONS, EXAMINE WITNESSES AND RECEIVE
32 EVIDENCE.

33 4. HIRE PERSONNEL OR CONTRACT WITH THIRD PARTIES TO ASSIST THE BOARD
34 IN ITS FUNCTIONS.

35 ~~23-1428.~~ Hearing procedures

36 A. THE BOARD OR A LOCAL BOARD MAY HOLD HEARINGS TO GATHER INFORMATION,
37 MAKE INQUIRIES, ADOPT RULES, ADJUDICATE DISPUTES AND ENFORCE THIS ARTICLE.

38 B. THE BOARD OR A LOCAL BOARD SHALL ADOPT RULES TO GOVERN PROCEDURES
39 FOR THE HEARINGS. THE RULES ADOPTED UNDER THIS SUBSECTION SHALL INCLUDE ALL
40 MINIMAL DUE PROCESS REQUIREMENTS REQUIRED BY THE UNITED STATES CONSTITUTION
41 AND THE CONSTITUTION OF THIS STATE.

42 C. THE BOARD OR A LOCAL BOARD MAY APPOINT A HEARING OFFICER TO CONDUCT
43 ANY ADJUDICATION HEARING AUTHORIZED BY THE BOARD OR LOCAL BOARD. AT THE
44 CONCLUSION OF THE HEARING, THE HEARING OFFICER SHALL PREPARE A WRITTEN

1 REPORT, INCLUDING FINDINGS AND RECOMMENDATIONS, AND SHALL SUBMIT THE REPORT
2 TO THE BOARD OR LOCAL BOARD FOR ITS DECISION.

3 D. THE BOARD OR A LOCAL BOARD SHALL NOT PROPOSE TO ADOPT A RULE THAT
4 AFFECTS ANY PERSON OR GOVERNMENTAL ENTITY OUTSIDE OF THE BOARD'S OR LOCAL
5 BOARD'S JURISDICTION. THE BOARD OR LOCAL BOARD SHALL CONDUCT A PUBLIC
6 HEARING TO ADOPT, AMEND OR REPEAL ANY RULE AND ALLOW A PUBLIC HEARING AND
7 COMMENT ON THE PROPOSED ACTION BEFORE THE BOARD OR LOCAL BOARD. THE PUBLIC
8 HEARING SHALL BE HELD AFTER NOTICE OF THE SUBJECT MATTER OF THE RULE, THE
9 ACTION PROPOSED TO BE TAKEN, THE TIME AND PLACE OF THE HEARING, THE MANNER IN
10 WHICH INTERESTED PERSONS MAY PRESENT THEIR VIEWS AND THE METHOD BY WHICH
11 COPIES OF THE PROPOSED RULE, PROPOSED AMENDMENT OR REPEAL OF AN EXISTING RULE
12 MAY BE OBTAINED. ALL MEETINGS OF THE BOARD SHALL BE HELD IN PHOENIX. ALL
13 MEETINGS OF LOCAL BOARDS SHALL BE HELD IN THE COUNTY OF RESIDENCE OF THE
14 LOCAL PUBLIC EMPLOYER. THE BOARD OR LOCAL BOARD SHALL PUBLISH A NOTICE ONCE
15 AT LEAST THIRTY DAYS BEFORE THE HEARING DATE IN A NEWSPAPER OF GENERAL
16 CIRCULATION IN THIS STATE OR, IN THE CASE OF A LOCAL BOARD HEARING, IN A
17 NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY. THE BOARD OR LOCAL BOARD
18 SHALL MAIL A NOTICE AT LEAST THIRTY DAYS BEFORE THE HEARING DATE TO ALL
19 PERSONS WHO HAVE MADE A WRITTEN REQUEST FOR ADVANCE NOTICE OF HEARINGS.

20 E. THE BOARD OR LOCAL BOARD SHALL MAKE AN ELECTRONIC RECORD OF ALL
21 HEARINGS.

22 23-1429. Appropriate bargaining units

23 A. ON RECEIPT OF A PETITION FOR A REPRESENTATION ELECTION FILED BY A
24 LABOR ORGANIZATION, THE BOARD OR A LOCAL BOARD SHALL DESIGNATE THE
25 APPROPRIATE BARGAINING UNITS FOR COLLECTIVE BARGAINING. APPROPRIATE
26 BARGAINING UNITS SHALL BE ESTABLISHED ON THE BASIS OF OCCUPATIONAL GROUPS.
27 ESSENTIAL FACTORS IN DETERMINING APPROPRIATE BARGAINING UNITS SHALL INCLUDE
28 THE PRINCIPLES OF EFFICIENT ADMINISTRATION OF GOVERNMENT, THE HISTORY OF
29 COLLECTIVE BARGAINING AND THE ASSURANCE TO PUBLIC EMPLOYEES OF THE FULLEST
30 FREEDOM IN EXERCISING THE RIGHTS GUARANTEED BY THIS ARTICLE. FOR THE
31 PURPOSES OF THIS SUBSECTION, "OCCUPATIONAL GROUPS" MEANS A CLEAR AND
32 IDENTIFIABLE COMMUNITY OF INTEREST IN EMPLOYMENT TERMS AND CONDITIONS AND
33 RELATED PERSONNEL MATTERS AMONG THE PUBLIC EMPLOYEES INVOLVED. OCCUPATIONAL
34 GROUPS INCLUDE EMPLOYEES OF BLUE-COLLAR, SECRETARIAL, CLERICAL, TECHNICAL,
35 PROFESSIONAL, PARAPROFESSIONAL, POLICE, FIRE AND CORRECTIONS POSITIONS.

36 B. WITHIN THIRTY DAYS AFTER A DISAGREEMENT BETWEEN A PUBLIC EMPLOYER
37 AND A LABOR ORGANIZATION CONCERNING THE COMPOSITION OF AN APPROPRIATE
38 BARGAINING UNIT, THE BOARD OR A LOCAL BOARD SHALL HOLD A HEARING CONCERNING
39 THE COMPOSITION OF THE BARGAINING UNIT BEFORE DESIGNATING AN APPROPRIATE
40 BARGAINING UNIT.

41 C. THE BOARD OR A LOCAL BOARD SHALL NOT INCLUDE IN ANY APPROPRIATE
42 BARGAINING UNIT SUPERVISORS, MANAGEMENT EMPLOYEES OR CONFIDENTIAL EMPLOYEES.

23-1430. Elections

A. IF, IN ACCORDANCE WITH RULES ADOPTED BY THE BOARD OR A LOCAL BOARD, A LABOR ORGANIZATION FILES A PETITION WITH THE BOARD OR LOCAL BOARD AND THE PETITION CONTAINS THE SIGNATURES OF AT LEAST THIRTY PER CENT OF THE PUBLIC EMPLOYEES IN AN APPROPRIATE BARGAINING UNIT, THE BOARD OR LOCAL BOARD SHALL CONDUCT A SECRET BALLOT REPRESENTATION ELECTION TO DETERMINE WHETHER AND BY WHICH LABOR ORGANIZATION THE PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT SHALL BE REPRESENTED. THE BALLOT SHALL CONTAIN THE FOLLOWING:

1. THE NAMES OF ANY LABOR ORGANIZATION THAT SUBMITS A PETITION CONTAINING SIGNATURES OF AT LEAST TEN PER CENT OF THE PUBLIC EMPLOYEES WITHIN THE APPROPRIATE BARGAINING UNIT.

2. A PROVISION ALLOWING THE PUBLIC EMPLOYEES TO INDICATE IF THE PUBLIC EMPLOYEES DESIRE TO BE REPRESENTED BY A LABOR ORGANIZATION.

B. AFTER A LABOR ORGANIZATION FILES A VALID PETITION WITH THE BOARD OR A LOCAL BOARD CALLING FOR A REPRESENTATION ELECTION, OTHER LABOR ORGANIZATIONS MAY SEEK TO BE PLACED ON THE BALLOT BY FILING A PETITION CONTAINING THE SIGNATURES OF AT LEAST TEN PER CENT OF THE PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT. THE PETITION SHALL BE FILED NO LATER THAN TEN DAYS AFTER THE BOARD OR LOCAL BOARD AND THE PUBLIC EMPLOYER POST A WRITTEN NOTICE THAT THE PETITION CONTAINING THE SIGNATURES OF AT LEAST THIRTY PER CENT OF THE PUBLIC EMPLOYEES HAS BEEN FILED BY A LABOR ORGANIZATION.

C. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, THE BOARD OR A LOCAL BOARD MAY ESTABLISH AN ALTERNATIVE APPROPRIATE PROCEDURE FOR DETERMINING MAJORITY STATUS. THE BOARD OR LOCAL BOARD SHALL NOT CERTIFY ANY APPROPRIATE BARGAINING UNIT IF THE PUBLIC EMPLOYER OBJECTS TO THE CERTIFICATION WITHOUT AN ELECTION.

D. WITHIN FIFTEEN DAYS AFTER AN ELECTION IN WHICH NO LABOR ORGANIZATION RECEIVES A MAJORITY OF THE VOTES CAST, A RUNOFF ELECTION BETWEEN THE TWO CHOICES RECEIVING THE LARGEST NUMBER OF VOTES CAST SHALL BE CONDUCTED. THE BOARD OR A LOCAL BOARD SHALL CERTIFY THE RESULTS OF THE ELECTION. IF A LABOR ORGANIZATION RECEIVES A MAJORITY OF THE VOTES CAST, THE BOARD OR LOCAL BOARD SHALL CERTIFY THE LABOR ORGANIZATION AS THE EXCLUSIVE REPRESENTATIVE OF ALL PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT.

E. AN ELECTION SHALL NOT BE CONDUCTED IF AN ELECTION OR RUNOFF ELECTION HAS BEEN CONDUCTED WITHIN THE TWELVE MONTHS THAT IMMEDIATELY PRECEDE THE PROPOSED REPRESENTATION ELECTION. AN ELECTION SHALL NOT BE HELD DURING THE TERM OF AN EXISTING COLLECTIVE BARGAINING AGREEMENT, EXCEPT AS PROVIDED BY SECTION 23-1432.

23-1431. Exclusive representation

A. A LABOR ORGANIZATION THAT HAS BEEN CERTIFIED BY THE BOARD OR A LOCAL BOARD TO REPRESENT PUBLIC EMPLOYEES IN AN APPROPRIATE BARGAINING UNIT SHALL BE THE EXCLUSIVE REPRESENTATIVE OF ALL PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT. THE EXCLUSIVE REPRESENTATIVE SHALL ACT FOR ALL PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT AND NEGOTIATE A COLLECTIVE BARGAINING AGREEMENT THAT COVERS ALL PUBLIC EMPLOYEES IN THE

1 APPROPRIATE BARGAINING UNIT. THE EXCLUSIVE REPRESENTATIVE SHALL REPRESENT
2 THE INTERESTS OF ALL PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT
3 WITHOUT DISCRIMINATION OR REGARD TO MEMBERSHIP IN THE LABOR ORGANIZATION.

4 B. THIS SECTION DOES NOT PREVENT A PUBLIC EMPLOYEE FROM ACTING
5 INDIVIDUALLY AND PRESENTING A GRIEVANCE WITHOUT THE INTERVENTION OF THE
6 EXCLUSIVE REPRESENTATIVE. IF A PUBLIC EMPLOYEE INDIVIDUALLY BRINGS A
7 GRIEVANCE AT ANY HEARING, THE EXCLUSIVE REPRESENTATIVE SHALL BE ALLOWED TO BE
8 PRESENT AND STATE OPINIONS. ANY ADJUSTMENT THAT IS MADE SHALL NOT BE
9 INCONSISTENT WITH OR IN VIOLATION OF THE COLLECTIVE BARGAINING AGREEMENT THAT
10 IS IN EFFECT BETWEEN THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE.

11 23-1432. Decertification of exclusive representative

12 A. ANY LABOR ORGANIZATION OR ANY MEMBER OF A LABOR ORGANIZATION MAY
13 INITIATE DECERTIFICATION OF A LABOR ORGANIZATION AS THE EXCLUSIVE
14 REPRESENTATIVE IF THIRTY PER CENT OF THE PUBLIC EMPLOYEES IN THE APPROPRIATE
15 BARGAINING UNIT MAKE A WRITTEN REQUEST TO THE BOARD OR A LOCAL BOARD FOR A
16 DECERTIFICATION ELECTION. A DECERTIFICATION ELECTION SHALL BE HELD IN A
17 MANNER PRESCRIBED BY THE BOARD OR LOCAL BOARD.

18 B. IF A COLLECTIVE BARGAINING AGREEMENT IS IN EFFECT FOR LESS THAN
19 THREE YEARS, A REQUEST FOR A DECERTIFICATION ELECTION SHALL BE MADE TO THE
20 BOARD OR A LOCAL BOARD NO EARLIER THAN NINETY DAYS AND NO LATER THAN SIXTY
21 DAYS BEFORE THE EXPIRATION OF THE COLLECTIVE BARGAINING AGREEMENT. IF A
22 COLLECTIVE BARGAINING AGREEMENT IS IN EFFECT FOR MORE THAN THREE YEARS, A
23 REQUEST FOR AN ELECTION MAY BE FILED AT ANY TIME.

24 C. IF, WITHIN THE TIME PERIOD PRESCRIBED IN SUBSECTION B, A COMPETING
25 LABOR ORGANIZATION FILES A PETITION THAT CONTAINS THE SIGNATURES OF AT LEAST
26 THIRTY PER CENT OF THE PUBLIC EMPLOYEES IN THE APPROPRIATE BARGAINING UNIT, A
27 REPRESENTATION ELECTION SHALL BE CONDUCTED INSTEAD OF A DECERTIFICATION
28 ELECTION.

29 D. IF AN EXCLUSIVE REPRESENTATIVE HAS BEEN CERTIFIED BUT NO COLLECTIVE
30 BARGAINING AGREEMENT IS IN EFFECT, THE BOARD OR A LOCAL BOARD SHALL NOT
31 ACCEPT A REQUEST FOR A DECERTIFICATION ELECTION EARLIER THAN TWELVE MONTHS
32 AFTER THE LABOR ORGANIZATION HAS BEEN CERTIFIED AS THE EXCLUSIVE
33 REPRESENTATIVE.

34 23-1433. Scope of bargaining; membership dues; grievance
35 procedure; closed meetings

36 A. EXCEPT FOR PUBLIC RETIREMENT SYSTEMS ESTABLISHED BY TITLE 38,
37 CHAPTER 5, PUBLIC EMPLOYERS AND EXCLUSIVE REPRESENTATIVES:

38 1. SHALL BARGAIN IN GOOD FAITH ON WAGES, HOURS AND OTHER TERMS AND
39 CONDITIONS OF EMPLOYMENT AND OTHER ISSUES AGREED TO BY THE PARTIES. THE
40 PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE SHALL NOT BE REQUIRED TO
41 AGREE TO A PROPOSAL OR TO MAKE A CONCESSION.

42 2. MAY ENTER INTO WRITTEN COLLECTIVE BARGAINING AGREEMENTS THAT COVER
43 EMPLOYMENT RELATIONS.

B. THE OBLIGATION TO COLLECTIVELY BARGAIN UNDER THIS ARTICLE DOES NOT AUTHORIZE PUBLIC EMPLOYERS AND EXCLUSIVE REPRESENTATIVES TO ENTER INTO ANY AGREEMENT THAT CONFLICTS WITH ANY STATUTE OF THIS STATE. IF A CONFLICT EXISTS BETWEEN A STATUTE OF THIS STATE AND AN AGREEMENT ENTERED INTO BY THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE IN COLLECTIVE BARGAINING, THE STATUTE GOVERNS.

C. PAYROLL DEDUCTIONS OF THE EXCLUSIVE REPRESENTATIVE'S MEMBERSHIP DUES SHALL BE A MANDATORY SUBJECT OF BARGAINING. THE AMOUNT OF DUES SHALL BE CERTIFIED IN WRITING BY AN OFFICIAL OF THE LABOR ORGANIZATION AND SHALL NOT INCLUDE SPECIAL ASSESSMENTS, PENALTIES OR FINES. THE DUTY OF THE PUBLIC EMPLOYER TO HONOR PAYROLL DEDUCTIONS SHALL CONTINUE UNTIL THE AUTHORIZATION IS REVOKED IN WRITING BY THE PUBLIC EMPLOYEE IN ACCORDANCE WITH THE NEGOTIATED AGREEMENT AND FOR SO LONG AS THE LABOR ORGANIZATION IS CERTIFIED AS THE EXCLUSIVE REPRESENTATIVE. DURING THE TIME THAT A BOARD CERTIFICATION IS IN EFFECT FOR A PARTICULAR APPROPRIATE BARGAINING UNIT, THE PUBLIC EMPLOYER SHALL NOT DEDUCT DUES FOR ANY OTHER LABOR ORGANIZATION.

D. OCCUPATIONAL GROUPS SHALL NEGOTIATE ALL ISSUES AT THE STATE LEVEL.

E. ANY IMPASSE RESOLUTION OR ANY AGREEMENT PROVISION BY THIS STATE AND AN EXCLUSIVE REPRESENTATIVE THAT REQUIRES THE EXPENDITURE OF MONIES SHALL BE CONTINGENT ON THE SPECIFIC APPROPRIATION OF MONIES BY THE LEGISLATURE AND THE AVAILABILITY OF THE MONIES. ANY IMPASSE RESOLUTION OR ANY AGREEMENT PROVISION BY A PUBLIC EMPLOYER OTHER THAN THIS STATE OR THE PUBLIC SCHOOLS AND AN EXCLUSIVE REPRESENTATIVE THAT REQUIRES THE EXPENDITURE OF MONIES SHALL BE CONTINGENT ON THE SPECIFIC APPROPRIATION FOR WAGES BY THE APPROPRIATE GOVERNING BODY AND THE AVAILABILITY OF THE MONIES. ANY AGREEMENT PROVISION BY A LOCAL SCHOOL BOARD AND AN EXCLUSIVE REPRESENTATIVE THAT REQUIRES THE EXPENDITURE OF MONIES SHALL BE CONTINGENT ON RATIFICATION BY THE APPROPRIATE GOVERNING BODY.

F. EVERY AGREEMENT SHALL INCLUDE A GRIEVANCE PROCEDURE TO BE USED FOR THE SETTLEMENT OF DISPUTES THAT RELATE TO EMPLOYMENT TERMS AND CONDITIONS AND RELATED PERSONNEL MATTERS. THE GRIEVANCE PROCEDURE SHALL PROVIDE FOR A FINAL AND BINDING DETERMINATION. THE FINAL DETERMINATION CONSTITUTES AN ARBITRATION AWARD. IF THERE IS A JUDICIAL REVIEW OF THE AWARD, THE COURT SHALL DETERMINE IF THE AWARD IS ARBITRARY, UNLAWFUL, UNREASONABLE, CAPRICIOUS OR NOT BASED ON SUBSTANTIAL EVIDENCE. THE COSTS OF ANY ARBITRATION PROCEEDING CONDUCTED PURSUANT TO THIS SECTION SHALL BE SHARED EQUALLY BY THE PARTIES.

G. THE FOLLOWING SHALL BE CLOSED:

1. MEETINGS IN WHICH BARGAINING STRATEGY IS PRELIMINARY TO COLLECTIVE BARGAINING NEGOTIATIONS BETWEEN A PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE OF THE PUBLIC EMPLOYEES OF THE PUBLIC EMPLOYER.

2. COLLECTIVE BARGAINING SESSIONS.

3. CONSULTATIONS AND IMPASSE RESOLUTION PROCEDURES IF THE PUBLIC EMPLOYER AND THE EXCLUSIVE REPRESENTATIVE OF THE APPROPRIATE BARGAINING UNIT ARE PRESENT.

1 23-1434. Impasse resolution: mediation: arbitration

2 A. THE FOLLOWING NEGOTIATIONS AND IMPASSE PROCEDURES SHALL BE FOLLOWED
3 BETWEEN THIS STATE AND THE EXCLUSIVE REPRESENTATIVE FOR STATE EMPLOYEES:

4 1. A REQUEST FOR THE BEGINNING OF INITIAL NEGOTIATIONS SHALL BE FILED
5 IN WRITING BY THE EXCLUSIVE REPRESENTATIVE TO THIS STATE NO LATER THAN JUNE 1
6 OF THE YEAR IN WHICH NEGOTIATIONS ARE TO TAKE PLACE. NEGOTIATIONS SHALL
7 BEGIN NO LATER THAN JULY 1 OF THAT YEAR.

8 2. IN THE YEARS FOLLOWING INITIAL NEGOTIATIONS PURSUANT TO PARAGRAPH 1
9 OF THIS SUBSECTION, NEGOTIATIONS THAT ARE AGREED TO BY THIS STATE AND THE
10 EXCLUSIVE REPRESENTATIVE SHALL BEGIN NO LATER THAN AUGUST 1 FOLLOWING THE
11 SUBMISSION OF WRITTEN NOTICE TO THIS STATE BY THE EXCLUSIVE REPRESENTATIVE.
12 THE EXCLUSIVE REPRESENTATIVE SHALL SUBMIT THE WRITTEN NOTICE TO THIS STATE BY
13 JULY 1 OF THE YEAR IN WHICH NEGOTIATIONS ARE TO TAKE PLACE.

14 3. IF AN IMPASSE OCCURS DURING NEGOTIATIONS BETWEEN THIS STATE AND THE
15 EXCLUSIVE REPRESENTATIVE AND NO AGREEMENT IS REACHED BY OCTOBER 1, THIS STATE
16 OR THE EXCLUSIVE REPRESENTATIVE MAY REQUEST MEDIATION SERVICES FROM THE
17 BOARD. THE BOARD SHALL ASSIGN A MEDIATOR FROM THE FEDERAL MEDIATION AND
18 CONCILIATION SERVICE TO ASSIST NEGOTIATIONS UNLESS THE PARTIES AGREE TO
19 ANOTHER MEDIATOR.

20 4. THE MEDIATOR SHALL PROVIDE SERVICES UNTIL AN AGREEMENT IS REACHED,
21 UNTIL THE MEDIATOR BELIEVES THAT MEDIATION SERVICES ARE NO LONGER HELPFUL OR
22 UNTIL DECEMBER 1, WHICHEVER OCCURS FIRST.

23 5. IF THE IMPASSE CONTINUES AFTER DECEMBER 1, THIS STATE OR THE
24 EXCLUSIVE REPRESENTATIVE MAY REQUEST THE FORMATION OF AN ARBITRATION PANEL.
25 THE ARBITRATION PANEL SHALL ADDRESS THE UNRESOLVED ISSUES. THE ARBITRATION
26 PANEL SHALL CONSIST OF ONE MEMBER WHO IS APPOINTED BY THE EXCLUSIVE
27 REPRESENTATIVE, ONE MEMBER WHO IS APPOINTED BY THIS STATE AND A THIRD MEMBER
28 WHO IS APPOINTED BY THE OTHER TWO MEMBERS. IF THERE IS A JUDICIAL REVIEW OF
29 THE DECISION OF THE ARBITRATION PANEL, THE COURT SHALL DETERMINE WHETHER THE
30 DECISION IS ARBITRARY, UNLAWFUL, UNREASONABLE, CAPRICIOUS OR NOT BASED ON
31 SUBSTANTIAL EVIDENCE.

32 B. EXCEPT FOR THIS STATE AND THE EXCLUSIVE REPRESENTATIVE FOR THIS
33 STATE, THE FOLLOWING IMPASSE PROCEDURES SHALL BE FOLLOWED BY ALL OTHER PUBLIC
34 EMPLOYERS AND EXCLUSIVE REPRESENTATIVES:

35 1. IF AN IMPASSE OCCURS AND THE PUBLIC EMPLOYER AND THE EXCLUSIVE
36 REPRESENTATIVE CANNOT AGREE ON A MEDIATOR, THE PUBLIC EMPLOYER OR THE
37 EXCLUSIVE REPRESENTATIVE MAY REQUEST FROM THE BOARD OR LOCAL BOARD THAT A
38 MEDIATOR BE ASSIGNED TO THE NEGOTIATIONS. THE BOARD OR LOCAL BOARD SHALL
39 ASSIGN A MEDIATOR WITH THE FEDERAL MEDIATION AND CONCILIATION SERVICE TO
40 ASSIST NEGOTIATIONS.

41 2. IF THE IMPASSE CONTINUES AFTER A SIXTY DAY MEDIATION PERIOD, EITHER
42 THE PUBLIC EMPLOYER OR THE EXCLUSIVE REPRESENTATIVE MAY REQUEST THE FORMATION
43 OF AN ARBITRATION PANEL. THE ARBITRATION PANEL SHALL CONSIST OF ONE MEMBER
44 WHO IS APPOINTED BY THE EXCLUSIVE REPRESENTATIVE, ONE MEMBER WHO IS APPOINTED
45 BY THE PUBLIC EMPLOYER AND A THIRD MEMBER WHO IS APPOINTED BY THE OTHER TWO

1 MEMBERS. IF THERE IS A JUDICIAL REVIEW OF THE DECISION OF THE ARBITRATION
2 PANEL, THE COURT SHALL DETERMINE WHETHER THE DECISION IS ARBITRARY, UNLAWFUL,
3 UNREASONABLE, CAPRICIOUS OR NOT BASED ON SUBSTANTIAL EVIDENCE.

4 C. EXCEPT FOR THIS STATE, A PUBLIC EMPLOYER MAY ENTER INTO A WRITTEN
5 AGREEMENT WITH THE EXCLUSIVE REPRESENTATIVE THAT ESTABLISHES AN ALTERNATIVE
6 IMPASSE RESOLUTION PROCEDURE.

7 23-1435. Prohibited practices; public employers; public
8 employees

9 A. IT IS A PROHIBITED PRACTICE FOR A PUBLIC EMPLOYER OR ITS DESIGNATED
10 REPRESENTATIVE TO DO ANY OF THE FOLLOWING:

11 1. INTERFERE WITH, RESTRAIN OR COERCE, OR THREATEN TO INTERFERE WITH,
12 RESTRAIN OR COERCE, ANY EMPLOYEE IN OR BECAUSE OF THE EXERCISE OF ANY RIGHTS
13 GUARANTEED BY THIS ARTICLE.

14 2. CONTROL, DOMINATE OR INTERFERE WITH THE FORMATION, EXISTENCE OR
15 ADMINISTRATION OF ANY LABOR ORGANIZATION OR SUPPORT OR IN ANY WAY ENCOURAGE
16 EMPLOYEES TO JOIN ANY ORGANIZATION IN PREFERENCE TO ANOTHER.

17 3. DISCRIMINATE OR RETALIATE AGAINST ANY EMPLOYEE FOR FILING A
18 GRIEVANCE OR FOR ASSERTING RIGHTS UNDER THIS ARTICLE.

19 4. REFUSE OR FAIL TO MEET AND CONFER IN GOOD FAITH WITH THE EXCLUSIVE
20 REPRESENTATIVE OR REFUSE OR FAIL TO PARTICIPATE IN GOOD FAITH IN THE
21 MEDIATION OR ARBITRATION.

22 5. DENY TO A LABOR ORGANIZATION RIGHTS THAT ARE GUARANTEED TO IT BY
23 THIS CHAPTER.

24 6. REFUSE OR FAIL TO COMPLY WITH THIS ARTICLE OR ANY RULE ADOPTED BY
25 THE BOARD OR LOCAL BOARD.

26 7. REFUSE OR FAIL TO COMPLY WITH ANY COLLECTIVE BARGAINING AGREEMENT.

27 8. ENGAGE IN A LOCKOUT OF ANY EMPLOYEES.

28 B. IT IS A PROHIBITED PRACTICE FOR A PUBLIC EMPLOYEE OR A LABOR
29 ORGANIZATION TO DO ANY OF THE FOLLOWING:

30 1. INTERFERE WITH, RESTRAIN OR COERCE, OR THREATEN TO INTERFERE WITH,
31 RESTRAIN OR COERCE, ANY EMPLOYEE IN OR BECAUSE OF THE EXERCISE OF RIGHTS
32 GUARANTEED BY THIS ARTICLE.

33 2. DISCRIMINATE OR RETALIATE AGAINST ANY EMPLOYEE FOR FILING A
34 GRIEVANCE OR FOR ASSERTING RIGHTS UNDER THIS ARTICLE.

35 3. DISCRIMINATE AGAINST A PUBLIC EMPLOYEE REGARDING MEMBERSHIP IN A
36 LABOR ORGANIZATION BECAUSE OF RACE, COLOR, CREED, AGE, SEX OR NATIONAL
37 ORIGIN.

38 4. REFUSE TO ENTER INTO COLLECTIVE BARGAINING IN GOOD FAITH WITH THE
39 PUBLIC EMPLOYER.

40 5. REFUSE OR FAIL TO MEET AND CONFER IN GOOD FAITH WITH THE EXCLUSIVE
41 REPRESENTATIVE, INCLUDING REFUSAL OR FAILURE TO PARTICIPATE IN GOOD FAITH IN
42 MEDIATION OR ARBITRATION.

43 6. REFUSE OR FAIL TO COMPLY WITH ANY COLLECTIVE BARGAINING AGREEMENT
44 OR THIS ARTICLE.

1 7. PICKET HOMES OR PRIVATE BUSINESSES OF ELECTED OFFICIALS OR PUBLIC
2 EMPLOYEES.

3 8. INDUCE, AUTHORIZE OR PARTICIPATE IN A STRIKE AGAINST ANY PUBLIC
4 EMPLOYER.

5 23-1436. Strikes and lockouts; prohibition; decertification

6 A. A PUBLIC EMPLOYEE OR LABOR ORGANIZATION SHALL NOT ENGAGE IN A
7 STRIKE. A LABOR ORGANIZATION SHALL NOT CAUSE, INSTIGATE, ENCOURAGE OR
8 SUPPORT A PUBLIC EMPLOYEE STRIKE. A PUBLIC EMPLOYER SHALL NOT CAUSE,
9 INSTIGATE OR ENGAGE IN ANY PUBLIC EMPLOYEE LOCKOUT.

10 B. A PUBLIC EMPLOYER MAY BRING AN ACTION FOR INJUNCTIVE RELIEF TO END
11 A STRIKE. THE EXCLUSIVE REPRESENTATIVE OF PUBLIC EMPLOYEES WHO ARE AFFECTED
12 BY A LOCKOUT MAY BRING AN ACTION FOR INJUNCTIVE RELIEF TO END A LOCKOUT.

13 C. ANY LABOR ORGANIZATION THAT CAUSES, INSTIGATES, ENCOURAGES OR
14 SUPPORTS A PUBLIC EMPLOYEE STRIKE, WALKOUT OR SLOWDOWN MAY BE DECERTIFIED AS
15 THE EXCLUSIVE REPRESENTATIVE FOR THAT APPROPRIATE BARGAINING UNIT BY EITHER
16 THE BOARD OR A LOCAL BOARD AND SHALL NOT SERVE AS THE EXCLUSIVE
17 REPRESENTATIVE OF ANY BARGAINING UNIT OF PUBLIC EMPLOYEES FOR A PERIOD THAT
18 DOES NOT EXCEED ONE YEAR.

19 23-1437. Agreements; enforcement

20 ALL COLLECTIVE BARGAINING AGREEMENTS AND OTHER AGREEMENTS BETWEEN
21 PUBLIC EMPLOYERS AND EXCLUSIVE REPRESENTATIVES ARE VALID AND ENFORCEABLE
22 ACCORDING TO THE TERMS OF THE AGREEMENT IF ENTERED INTO IN ACCORDANCE WITH
23 THIS ARTICLE.

24 23-1438. Judicial enforcement

25 A. THE TERMS OF ANY AGREEMENT MAY BE ENFORCED BY EITHER PARTY BY A
26 CIVIL ACTION IN THE SUPERIOR COURT IN THE COUNTY IN WHICH THE AGREEMENT WAS
27 MADE. THE BOARD OR A LOCAL BOARD MAY REQUEST THE COURT TO ENFORCE AN ORDER
28 ISSUED PURSUANT TO THIS ARTICLE, INCLUDING ORDERS FOR APPROPRIATE TEMPORARY
29 RELIEF AND RESTRAINING ORDERS. THE COURT SHALL CONSIDER THE REQUEST FOR
30 ENFORCEMENT ON THE RECORD MADE BEFORE THE BOARD OR LOCAL BOARD. THE COURT
31 SHALL UPHOLD THE ACTION OF THE BOARD OR LOCAL BOARD AND TAKE APPROPRIATE
32 ACTION TO ENFORCE THE BOARD'S OR LOCAL BOARD'S ACTION UNLESS THE COURT
33 CONCLUDES THAT THE ORDER IS:

34 1. ARBITRARY, CAPRICIOUS OR AN ABUSE OF DISCRETION.

35 2. NOT SUPPORTED BY SUBSTANTIAL EVIDENCE ON THE RECORD CONSIDERED AS A
36 WHOLE.

37 3. NOT IN ACCORDANCE WITH LAW.

38 B. ANY PERSON OR PARTY, INCLUDING ANY LABOR ORGANIZATION THAT IS
39 AFFECTED BY A FINAL RULE, ORDER OR DECISION OF THE BOARD OR A LOCAL BOARD,
40 MAY APPEAL TO THE COURT FOR FURTHER RELIEF. ALL APPEALS SHALL BE BASED ON
41 THE RECORD MADE AT THE BOARD OR LOCAL BOARD HEARING. ALL APPEALS TO THE
42 COURT SHALL BE TAKEN WITHIN THIRTY DAYS AFTER THE DATE OF THE FINAL RULE,
43 ORDER OR DECISION OF THE BOARD OR LOCAL BOARD. ACTIONS THAT ARE TAKEN BY THE
44 BOARD OR LOCAL BOARD SHALL BE AFFIRMED UNLESS THE COURT CONCLUDES THAT THE
45 ACTION IS:

1 1. ARBITRARY, CAPRICIOUS OR AN ABUSE OF DISCRETION.
2 2. NOT SUPPORTED BY SUBSTANTIAL EVIDENCE ON THE RECORD TAKEN AS A
3 WHOLE.

4 3. NOT IN ACCORDANCE WITH LAW.

5 Sec. 2. Section 41-1092.02, Arizona Revised Statutes, is amended to
6 read:

7 41-1092.02. Appealable agency actions; application of
8 procedural rules; exemption from article

9 A. This article applies to all contested cases as defined in section
10 41-1001 and all appealable agency actions, except contested cases with or
11 appealable agency actions of:

12 1. The state department of corrections.
13 2. The board of executive clemency.
14 3. The industrial commission of Arizona.
15 4. The Arizona corporation commission.
16 5. The Arizona board of regents and institutions under its
17 jurisdiction.

18 6. The state personnel board.
19 7. The department of juvenile corrections.
20 8. The department of transportation.
21 9. The department of economic security except as provided in sections
22 8-506.01, 8-811 and 46-458.

23 10. The department of revenue regarding:
24 (a) Income tax, withholding tax or estate tax.
25 (b) Any tax issue related to information associated with the reporting
26 of income tax, withholding tax or estate tax unless the taxpayer requests in
27 writing that this article apply and waives confidentiality under title 42,
28 chapter 2, article 1.

29 11. The board of tax appeals.
30 12. The state board of equalization.
31 13. The state board of education, but only in connection with contested
32 cases and appealable agency actions related to applications for issuance or
33 renewal of a certificate and discipline of certificate holders pursuant to
34 sections 15-203, 15-534, 15-534.01, 15-535, 15-545 and 15-550.

35 14. The board of fingerprinting.

36 15. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD.

37 B. Unless waived by all parties, an administrative law judge shall
38 conduct all hearings under this article, and the procedural rules set forth
39 in this article and rules made by the director apply.

40 C. Except as provided in subsection A of this section:

41 1. A contested case heard by the office of administrative hearings
42 regarding taxes administered under title 42 shall be subject to ~~the~~
43 ~~provisions under~~ section 42-1251.

44 2. A final decision of the office of administrative hearings regarding
45 taxes administered under title 42 may be appealed by either party to the

1 director of the department of revenue, or a taxpayer may file and appeal
2 directly to the board of tax appeals pursuant to section 42-1253.

3 D. Except as provided in subsections A, B, E, F and G of this section
4 and notwithstanding any other administrative proceeding or judicial review
5 process established in statute or administrative rule, this article applies
6 to all appealable agency actions and to all contested cases.

7 E. Except for a contested case or an appealable agency action
8 regarding unclaimed property, sections 41-1092.03, 41-1092.08 and 41-1092.09
9 do not apply to the department of revenue.

10 F. The board of appeals established by section 37-213 is exempt from:

11 1. The time frames for hearings and decisions provided in section
12 41-1092.05, subsection A, section 41-1092.08 and section 41-1092.09.

13 2. The requirement in section 41-1092.06, subsection A to hold an
14 informal settlement conference at the appellant's request if the sole subject
15 of an appeal pursuant to section 37-215 is the estimate of value reported in
16 an appraisal of lands or improvements.

17 G. Auction protest procedures pursuant to title 37, chapter 2, article
18 4.1 are exempt from this article.

19 Sec. 3. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
20 amended by adding section 41-3018.01, to read:

21 41-3018.01. Public employee labor relations board; termination
22 July 1, 2018

23 A. THE PUBLIC EMPLOYEE LABOR RELATIONS BOARD TERMINATES ON JULY 1,
24 2018.

25 B. TITLE 23, CHAPTER 8, ARTICLE 7 IS REPEALED ON JANUARY 1, 2019.

26 Sec. 4. Purpose

27 Pursuant to section 41-2955, subsection E, Arizona Revised Statutes,
28 the purpose of the public employee labor relations board is to encourage
29 conciliation, mediation and voluntary arbitration, to aid and encourage
30 employers and their employees to reach and maintain collective bargaining
31 agreements concerning rates of pay, hours and working conditions and to make
32 all reasonable efforts through negotiations to settle their differences by
33 mutual agreement reached through collective bargaining or by those methods as
34 may be provided for in any applicable agreement for the settlement of
35 disputes.